UNITED NATIONS

S

Security Council

Distr.
GENERAL

S/24371
3 August 1992

ORIGINAL: ENGLISH

LETTER DATED 31 JULY 1992 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF CROATIA TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose herewith facsimile letters dated 28 and 31 July 1992, respectively, by the Deputy Prime Minister of the Republic of Croatia, Mr. Milan Ramljak.

We kindly request that this letter be circulated as a document of the Security Council.

(Signed) Mario NOBILO
Chargé d'affaires a.i.

92-35841 3599b (E) 030892

030892

/...

Annex I

Letter dated 28 July 1992 from the Deputy Prime Minister of Croatia addressed to the Secretary-General

Please find enclosed the request by the Republic of Croatia concerning a major aspect of the peace-keeping operation which causes great concern to us and - I believe - to you as well.

The reason why the Government of the Republic of Croatia finds it necessary to approach Your Excellency is the control of Croatian frontiers, a problem that was not duly considered at the time when the United Nations peace-keeping operation was introduced nor was any reference made to it in Mr. Vance's plan. Under the present conditions, which are fundamentally different from those prevailing at the time when the Vance plan was being prepared, we see the solution to this problem as a prerequisite for the implementation of the peace plan.

For this reason, we kindly request that Your Excellency examine our proposal concerning the control of those UNPA (United Nations protected area) boundaries which are at the same time frontiers of the Republic of Croatia with neighbouring countries, and to have it circulated as a Security Council document.

I am availing myself of this opportunity to reiterate in the name of the Government of the Republic of Croatia that we have to date met all obligations arising from the United Nations peace plan and we were cooperative as regards the demands of the Security Council concerning the so-called "pink zones". The Republic of Croatia will remain committed to all principles and obligations assumed under the provisions contained in the documents of the United Nations Security Council and the European Community particularly to those of the European Community Conference on Yugoslavia.

(Signed) Dr. Milan RAMLJAK
President of Government's
Commission for UNPROFOR

Enclosure

Request of the Republic of Croatia concerning control of its frontiers

1. The plan elaborated by the Honourable Cyrus R. Vance, contained in annex III to the report of the Secretary-General of 11 December 1991 (S/23280), on the basis of which demilitarized United Nations protected areas (UNPAs) have been established in the Republic of Croatia, does not deal with the control of their boundaries. The problem of non-existence of any control on the boundaries of the UNPAs - which are at the same time frontiers of the Republic of Croatia with neighbouring States (Bosnia and Herzegovina, Serbia, Hungary) is extremely serious. According to the Vance plan, the United Nations Protection Force (UNPROFOR) is not entrusted with control of these frontiers, while at the same time authorities of the Republic of Croatia have no possibility to control them.

A situation such as this obviously favours the occupying forces, which waged this war of aggression in an effort to expand their territory and are now, via facti, attempting to shift the frontiers between the Republic of Croatia and Serbia and the Republic of Croatia and the Republic of Bosnia and Herzegovina from recognized frontiers to the line dividing areas fully controlled by Croatian authorities from the UNPAs. This is contrary to the basic principle of international law prohibiting any changes of State frontiers by use of force.

On numerous occasions the Republic of Croatia has reiterated the problems concerning the control of its UNPA frontiers to neighbouring States, both in writing and verbally during discussions with the representatives of United Nations bodies and UNPROFOR Command.

The non-existence of any police, customs and health (such as epidemiological and sanitary) control poses a great danger and potentially irreparable damage to the Republic of Croatia as a whole, and even more in the UNPAs. An additional danger stems from the fact that this makes any control of illegal international drug traffic impossible. What is particularly detrimental is the absence of control on the border area between UNPAs and Serbia as well as UNPAs and the parts of Bosnia and Herzegovina occupied by JNA (Yugoslav People's Army) and Serbian irregulars, which prevents UNPROFOR from accomplishing one of its principal tasks: the return of forcibly displaced persons to their homes. Namely, the settlement of the Serbian population from Serbia and from Bosnia and Herzegovina into homes of expelled non-Serbian population (Croats, Hungarians, Czechs, Slovaks, etc.) in the UNPAs is being continued, which greatly aggravates the problem of the return of displaced persons to these areas.

As reported by Mrs. Diane Lubin, Deputy Coordinator for Civilian Affairs of UNPROFOR in Sector "East" in early spring 1992, the sector was newly settled by about 20,000 Serbs (see: Blaine Harden, Washington Post

correspondent from Ilok, "Blue Impotence, Black Terror", Večernji list 20 May 1992; Ian Traynor, The Guardian, 18 May 1992). According to our estimates, this number has at least doubled by now.

Furthermore, pillage of goods and property owned by Croatian citizens or the Republic of Croatia has continued in UNPAs. At present, tens of thousands of tons of wheat and other crops, plus poultry, cattle, agricultural machinery and entire industrial plants (e.g., the knitwear factory "Sutjeska" and the dairy in Beli Manastir - Sector "East") are being taken to Serbia. There are strong indications that registration documents and trademarks of Croatian enterprises from the occupied territories are used for Serbia's foreign trade. All this is being done in order to bypass the impact of the embargo imposed by the Security Council against Serbia and Montenegro. The Serbian media openly report on such actions in detail and thereby provide respective evidence.

Moreover, the aggressor has taken advantage of the absence of any control of UNPA frontiers to neighbouring States - especially in areas constituting state frontiers to Bosnia and Herzegovina - for hostile activities against the Republic of Bosnia and Herzegovina in violation of the principle prohibiting the use of the territory of one State for attacks on other States, including guidance of such operations or logistic support to military operations.

2. A situation such as this, on the frontiers of the Republic of Croatia (being at the same time UNPAs boundaries) with three neighbouring States is not in accordance with international law. Namely, it is contrary to the basic principle of international law according to which every State has the right to protect its frontiers. In this very case, the Arbitration Commission under the chairmanship of Mr. R. Badinter (Opinion No. 3), acting in the framework of the Conference on Yugoslavia, as well as the Conference itself, confirmed that all the frontiers of the Republic of Croatia are frontiers in the sense of public international law.

3. In view of the aforementioned, the Republic of Croatia reiterates its request to be enabled to establish its control on UNPA borders which coincide with the frontiers of the Republic of Croatia with the neighbouring States. Such control should be performed by police, customs and health care authorities of the Republic of Croatia. In addition, the Republic of Croatia would welcome the deployment of UNPROFOR elements to monitor the border control activities performed by authorities of the Republic of Croatia.

When considering this request, the change of the international status of the Republic of Croatia since the adoption of the Vance plan has to be taken into account. Namely, Croatia has become an internationally recognized sovereign State and a Member of the United Nations.

The fact that parts of its territory are temporarily under United Nations authority and that UNPAs are demilitarized cannot derogate the State's right to protect all of its frontiers.

4. In case not all the boundaries of the UNPAs, i.e., of the Republic of Croatia are protected, the achievement of a just solution for the UNPAs is in jeopardy. Without control of frontiers, ethnic cleansing is being continued and the re-establishment of the pre-war demographic situation will become extremely difficult. Consequently, the political solution for the UNPAs would be prejudged, which is contrary to the Vance plan.

It should be noted that the United Nations Security Council in an identical situation to the present one in Croatia - condemned the aggressor State and asked the Secretary-General to prevent any attempts by the invader to repopulate the occupied country with its own nationals (Security Council resolution 677 (1990), of 28 November 1990). In our case the territory of the Republic of Croatia is being settled by foreign citizens - Serbs from Serbia and Bosnia and Herzegovina.

5. Finally, it should be particularly pointed out that the non-existence of any control on the boundaries, i.e., frontiers, between the UNPAs and Serbia, enable violations of the sanctions imposed against the so-called Federal Republic of Yugoslavia on the basis of Security Council resolution 757 (1992) of 30 May 1992.

Annex II

Letter dated 31 July 1992 from the Deputy Prime Minister of Croatia addressed to the Secretary-General

Please find enclosed the addendum to the request of the Republic of Croatia concerning control its frontiers of 28 July 1992. As we submitted our request prior to learning of your report of 27 July 1992, it has become necessary to forward this addendum with the aim of finding a mutually acceptable solution.

We are pleased that you share our concern regarding the problem of the control of international borders of the Republic of Croatia, as well as regarding the still unsatisfactory situation in the UNPAs.

Therefore, Your Excellency, we kindly request that you examine this addendum and have it circulated as a Security Council document.

(Signed) Dr. Milan RAMLJAK
President of Government's
Commission for UNPROFOR

Enclosure

Addendum to the request of the Republic of Croatia concerning control of its frontiers of 28 July 1992

The report of the Secretary-General of 27 July 1992 (S/24353) considers, among other things, a possibility of further expanding the mandate of UNPROFOR concerning the UNPA boundaries where these coincide with international borders of the Republic of Croatia (para. 28). This issue presents one of our major concerns regarding the functions of UNPROFOR in the Republic of Croatia. Therefore, we have repeatedly conveyed to UNPROFOR our concern in this respect (para. 19) and on 28 July 1992 - prior to learning of the above-mentioned report - we submitted the request of the Republic of Croatia to the Secretary-General concerning the same issue, wherein we have stated our views.

Bearing in mind our thus expressed view regarding the problem of the UNPA boundaries where these coincide with international borders of the Republic of Croatia and the need for an expedient and just solution of this problem, we welcome the report.

In an effort to jointly resolve this problem, we would like to draw attention to the following:

1. Although the Croatian Government has repeatedly presented the case of the necessity to control the boundaries of the UNPA in the areas where these boundaries are at the same time international borders of the Republic of Croatia, the Croatian Government has never accepted the interpretation and does not share the view of the report (para. 20) according to which the control of the mentioned international borders by the Croatian authorities would not be in accordance with the United Nations peace-keeping plan (S/23280, annex III), due to the fact that the plan excludes the re-establishment of Croatian laws and institutions in the UNPAs until a complete political solution is achieved. Namely, the situation in this region has changed fundamentally, not only since the time of the formulation of the United Nations peace-keeping plan, but also since the Secretary-General's report of 4 February 1992 (S/23513, para. 9). The process of dissolution of former Yugoslavia has both de facto and de jure been completed and the Socialist Federal Republic of Yugoslavia no longer exists, which was confirmed by the Arbitration Commission under the Chairmanship of Mr. Badinter (Opinion No. 8), acting in the framework of the EC Conference on Yugoslavia. As a result, new States have emerged and among them is the Republic of Croatia, which has become a member of numerous international organizations, including (on 22 May 1992) the United Nations.

The UNPAs are in the Republic of Croatia, as was stated in the Vance plan, in subsequent United Nations documents and in the Secretary-General's reports, and as was unequivocally stated in this last report, of 27 July 1992. Therefore, as we strive for a political solution - which should be based on an appropriate status of these areas in order to secure all the

rights of the Serbian minority - yet this should not bring into question the territorial integrity of the Republic of Croatia. The Republic of Croatia has enacted special legislation on minorities, thereby fulfilling all of the conditions that were deemed necessary by the European Community for international recognition in accordance with the Conference on Yugoslavia, which is entrusted with the task of finding a political solution. In that respect, the Republic of Croatia is willing to accept all further documents of the EC Conference on Yugoslavia on which an agreement is reached.

Further, the Arbitration Commission under the chairmanship of Mr. Badinter stated that, according to positive international law, minorities do not have the right to self-determination and that, whatever the circumstances, the right to self-determination must not involve changes to existing frontiers at the time of independence except where the States concerned agree otherwise (Opinion No. 2). The Arbitration Commission is of the opinion that the Serbian minority in Croatia is entitled to all the rights accorded to minorities and ethnic groups under international law and under the provisions of the draft Convention of the Conference on Yugoslavia of 4 November 1991, to which it has undertaken to give effect. In its next opinion (Opinion No. 3) the Arbitration Commission has confirmed that all the international borders of the Republic of Croatia are borders in terms of public international law.

Therefore, we again stress that control of the international borders of the Republic of Croatia by its authorities in no way prejudges the future status of the UNPAs.

2. With respect to the possibility of recruiting immigration and customs officers locally (para. 22), we would like to emphasize the fact that the issue at hand is not one of UNPA boundaries but of international borders of the Republic of Croatia. The fact that this is a question of internationally recognized borders of a State Member of the United Nations is clearly and repeatedly stressed in this report as well. Consequently, it should be taken into consideration that the regime on these international borders must be significantly different from the one applied to boundaries which separate the UNPAs from other parts of the Republic of Croatia.

It is an accepted fact that international borders are secured by the central authorities in accordance with internal regulations of the country in question. In other words, these matters are never delegated to other authorities or subject to regulations of any local authority of the area in which the respective border is established. Based on the fact that UNPAs are in the Republic of Croatia, those Croatian authorities responsible for border zone control in general must be given this responsibility on international borders which coincide with the UNPA boundaries, as well. Should it be deemed necessary to have UNPROFOR's presence alongside the Croatian authorities, for purposes of monitoring these activities, the Government of the Republic of Croatia would welcome such measures, as was already stated in our request of 28 July 1992.